

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

ROBERT E. BAILEY	§	
VS.	§	CIVIL ACTION NO. 1:03-CV-1362
THEODORE F. HILYAR, ET AL.	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Robert E. Bailey, a prisoner confined at the Stiles Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, brought this action pursuant to 42 U.S.C. § 1983 against Lieutenant Theodore W. Hilyar, Sergeant Kris Collins, and Correctional Officer Roberto Garza.

The court ordered that this matter be referred to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends that this action be placed on the court's docket for a jury trial; a writ of habeas corpus be issued to secure the attendance at trial of the plaintiff; and that the order referring the action to the magistrate judge be vacated.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, pleadings and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct and the report and recommendation of the magistrate judge is **ADOPTED**. The order referring this case to the magistrate judge is **VACATED**.

So **ORDERED** and **SIGNED** this **20** day of **October, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is written above a horizontal line.

Ron Clark, United States District Judge